

### **REMARKS**

Claims 1-147 are currently pending in the application. Claims 28-66 and 101-139 are withdrawn. Claims 23, 26, 96, and 99 are cancelled. No new matter is added.

#### **Rejection of claims 74-100 and 140-147 Under 35 U.S.C. §101**

The Office Action states that claims 74-101 and 140-147 are rejected under 35 USC 101 on the grounds that these claims are directed towards non-statutory subject matter. The Office Action states that the claims do not particularly point out any non-naturally occurring differences between the claimed host cells and the “naturally occurring host cells”. The Office Action further asserts that, in the absence of language that clearly distinguishes the claimed host cells over cells that exist naturally, the claims as presented also read on cells that exist naturally. The Office Action states that naturally occurring products are non-statutory subject matter, citing *Diamond v. Chakrabarty*, and that the claims can therefore not be allowed. In addition, the Office Action recapitulates certain teachings of the specification regarding transgenic animals. Applicants respectfully disagree and traverse the rejection.

Without acquiescing to the rejection, and solely for the purpose of advancing prosecution, claim 74 has been amended to recite an isolated cell, as suggested by the Office Action. Applicants accordingly request that the rejection be reconsidered and withdrawn.

#### **Rejection of Claims 23, 26, 96, and 99 Under 35 U.S.C. §112, First Paragraph**

The Office Action states that claims 23, 26, 96, and 99 are rejected under 35 U.S.C. §112, first paragraph on the grounds that they allegedly fail to comply with the written description requirement. The Office Action states that the specification fails to provide sufficient description of a representative number of species to support the limitation that the second amino acid sequence comprise at least five contiguous amino acids of a naturally occurring GM-CSF.

Solely for the purpose of expediting prosecution, and without in any way acquiescing to the rejections, Applicants have cancelled claims 23, 26, 96, and 99 from prosecution at this time

without prejudice to pursuing claims of similar scope in a continuing application. Applicants therefore request that the rejection be reconsidered and withdrawn.

Applicants submit that all claims are allowable as written and respectfully request early favorable action by the Examiner. If the Examiner believes that a telephone conversation with Applicant's attorney/agent would expedite prosecution of this application, the Examiner is cordially invited to call the undersigned attorney/agent of record.

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Respectfully submitted,



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